

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 93-0867 CSET  
Controlled Substance Excise Tax – Imposition  
For Tax Period: 1993

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ISSUE

I. Controlled Substance Excise Tax — Imposition

Authority: IC 6-7-3-5; IC 35-48-4-11; IC 6-8.1-5-1

Taxpayer protests the imposition of Indiana's controlled substance excise tax.

STATEMENT OF FACTS

On August 23, 1993, police arrested taxpayer for possession of marijuana and cocaine. Following arrest, the Department assessed, against taxpayer, Indiana's controlled substance excise tax on 46.09 grams of marijuana and 3.81 grams of cocaine. At the statutory rate of \$40.00 per gram, the base tax deficiency amounted to \$1,996.00. With the addition of the statutory 100% penalty, taxpayer's total liability came to \$3,992.00. Taxpayer protests this assessment.

I. Controlled Substance Excise Tax – Imposition

DISCUSSION

The Department notified taxpayer, in writing, of the scheduled date and time for the hearing of this protest. Taxpayer failed to appear or send representation. These findings, therefore, are based on the information that was available to the Department at the time of the scheduled hearing.

Pursuant to IC 6-7-3-5:

The controlled substance excise tax is imposed on controlled substances that are:

- (1) delivered;
- (2) possessed; or
- (3) manufactured;

in Indiana in violation of IC 35-48-4 or 21 U.S.C 841 through 21 U.S.C. 852. The tax does not apply to a controlled substance that is distributed, manufactured, or dispensed by a person registered under IC 35-48-3.

According to IC 6-8.1-5-1, the notice of proposed assessment is prima facie evidence that the Department's claim is valid. The burden of providing information rebutting this assessment rests with the taxpayer. In this instance, taxpayer has failed to provide the Department with any information. Taxpayer, therefore, has failed to meet the statutory burden of proof.

### **FINDING**

Taxpayer's protest is denied.